



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

TDD (804) 698-4021

www.deq.virginia.gov

Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4020
1-800-592-5482

December 28, 2010

Rebecca Carter
Buckingham County Administration
POB 252
Buckingham, VA 23921

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

RE: Final Virginia Water Protection Permit 09-1061
Troublesome Creek Reservoir, Buckingham County, Virginia

Dear Ms Carter:

Pursuant to the Virginia Water Protection (VWP) Permit Program Regulation 9 VAC 25-210-10 et seq., § 401 of the Clean Water Act Amendments of 1977, and Public Law 95-217, the Department of Environmental Quality (DEQ) has enclosed the issued VWP individual permit for the project referenced above.

This permit is valid for 15 from the date of issuance. Please refer to Part I.B of the Special Conditions for reissuance information.

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have 30 calendar days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a notice of appeal in accordance with the Rules of the Supreme Court of Virginia with the Director, Department of Environmental Quality. In the event that this decision is served on you by mail, three days are added to that period. Refer to Part 2A of the Rules of the Supreme Court of Virginia for additional requirements governing appeals from administrative agencies.

Alternatively, any owner under §§62.1-44.16, 62.1-44.17, and 62.1-44.19 of the State Water Control Law aggrieved by any action the board has taken without a formal hearing, or by inaction of the board, may demand in writing a formal hearing of such owner's grievance, provided a petition requesting such hearing is filed with the board. Said petition must meet the requirements set forth in the board's Procedural Rule Number 1 (9 VAC 25-230-130.B). In cases involving actions of the board, such petition must be filed within 30 calendar days after notice of such action is sent to such owner by certified mail.

Please contact me at brenda.winn@deq.virginia.gov or 804-698-4516 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Brenda Winn". The signature is written in a cursive, flowing style.

Brenda K. Winn
VWP Water Withdrawal Project Manager

Enclosures: Permit Cover Page; Part I – Special Conditions; Part II – General Conditions; and Attachment A

cc: Carter Teague, EEE Consulting, Inc.
Carolyn Cannella, USACE-Norfolk
William Thompson, Virginia Dept. of Health



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1-800-592-5482

VWP Individual Permit Issuance Number 09-1061

Effective Date: December 27, 2010

Expiration Date: December 26, 2025

VIRGINIA WATER PROTECTION PERMIT ISSUED PURSUANT TO THE STATE WATER CONTROL LAW AND SECTION 401 OF THE CLEAN WATER ACT

Based upon an examination of the information submitted by the owner, and in compliance with § 401 of the Clean Water Act as amended (33 USC 1341) and the State Water Control Law and regulations adopted pursuant thereto, the State Water Control Board (board) has determined that there is a reasonable assurance that the activity authorized by this permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The board finds that the effect of the impact, together with other existing or proposed impacts to surface waters, will not cause or contribute to a significant impairment to state waters or fish and wildlife resources.

Permittee: Buckingham County

Address: P.O. Box 252, Buckingham, Virginia 23921

Activity Location: Troublesome Creek Reservoir and Buckingham Water Treatment Plant,
Buckingham County, Virginia

Activity Description: The permanent flooding of 0.51 acre palustrine emergent wetlands, 2.53 acres palustrine forest wetlands, and 818 linear feet of stream bed in Troublesome Creek and its unnamed tributaries for the replacement of an existing intake structure in the reservoir and modifications to overflow and spillway structures; the temporary impact of 0.4 of an acre (1,700 sq. ft.) open water for the replacement of an existing intake structure in the reservoir; the continuation of surface water withdrawals from Troublesome Creek Reservoir for public water supply in accordance with the permit Special Conditions; the return of flow to Troublesome Creek in accordance with the permit Special Conditions; and the implementation of water conservation measures in accordance with the permit Special Conditions.

The permitted activity shall be in accordance with this Permit Cover Page, the Part I - Special Conditions, Attachment A, and the Part II - General Conditions.

Allen Shinsky
Director, Water Division

December 27, 2010
Date

A. Authorized Activities

This permit authorizes the following impacts as indicated in the application materials dated July 30, 2009, received by DEQ on August 3, 2009, and deemed complete by DEQ on April 29, 2010; revised application materials dated July 30, 2010, received by DEQ on August 3, 2010; and additional information and correspondence from the applicant dated March 17, 23, 24, and 30, 2010; April 12 and 29, 2010; May 24 and 27, 2010; June 3, 2010; July 22, 2010; August 3 and 25, 2010; and September 1 and 21, 2010.

1. The permanent flooding of 818 linear feet of Troublesome Creek and four of its unnamed tributaries as a result of increasing the height of the existing overflow structure by 14 inches and making modifications to the existing reservoir spillway.
2. The permanent flooding of 0.51 acre of palustrine emergent wetland and 2.53 acres of palustrine forest wetland as a result of increasing the height of the existing overflow structure by 14 inches and making modifications to the existing reservoir spillway.
3. The temporary impacts of 0.4 acre (1,700 square feet) of open water for temporary coffer dam placement and replacement of existing reservoir intake pipe. Temporary excavation of the river bottom within the dewatered temporary cofferdam is authorized provided the permittee complies with all applicable conditions of this permit.
4. The temporary use of mechanical equipment in surface waters when conducted according to the permit conditions in Part I.C below.
5. The withdrawal of surface water from the Troublesome Creek Reservoir on Troublesome Creek in accordance with all of the permit conditions, and more specifically detailed in Part I.F.

B. Permit Term

This permit is valid for 15 years from the date of issuance. A new permit may be necessary for the continuance of the authorized activities, including water withdrawals, or any permit requirement that has not been completed. At least 120 calendar days prior to the expiration of this permit, the permittee shall notify DEQ in writing of his or her intent to continue one or more of the authorized activities. A new permit application may be required by DEQ at that time. DEQ, acting on behalf of the State Water Control Board, may issue a new permit or may issue a new permit with new or modified conditions, or the Board may deny the issuance of a permit at that time.

C. Standard Project Conditions

1. The activities authorized by this permit shall be executed in such a manner that any impacts to stream beneficial uses are minimized. As defined in §62.1-10(b) of the Code, “beneficial use” means both instream and offstream uses. Instream beneficial uses include, but are not limited to, the protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. Offstream beneficial uses include, but are not limited to, domestic (including public water supply), agricultural, electric power generation, commercial, and industrial uses. Public water supply uses for human consumption shall be considered the highest priority.
2. No activity shall substantially disrupt the movement of aquatic life indigenous to the water body, including those species that normally migrate through the area, unless the primary purpose of the activity is to impound water.
3. Flows downstream of the project area shall be maintained consistent with the terms of this permit to protect all uses.
4. No activity shall cause more than minimal adverse effect on navigation, and no activity shall block more than half of the width of the stream at any given time.
5. The activity shall not impede the passage of normal or expected high flows, and any associated structure shall withstand expected high flows.
6. All in-stream activities shall be conducted during low-flow conditions whenever practicable.
7. All excavation, dredging, or filling in surface waters shall be accomplished in a manner that minimizes bottom disturbance and turbidity. Turbidity levels downstream of the construction site shall not exceed turbidity levels upstream of the construction site at any time.
8. All construction, construction access, and demolition activities associated with this project shall be accomplished in a manner that minimizes construction materials or waste materials from entering surface waters, unless authorized by this permit. Wet, excess, or waste concrete shall be prohibited from entering surface waters. An exception to this condition is the pouring of concrete within the confined area of a dewatered cofferdam, where the wet, unset concrete shall not come in contact with flowing water.
9. Temporary in-stream construction features such as cofferdams shall be made of non-erodible materials.
10. Measures shall be employed at all times to prevent and contain spills of fuels, lubricants, or other pollutants into surface waters.

11. Virginia Water Quality Standards shall not be violated in any surface waters as a result of the project activities.
12. Stormwater runoff shall be prohibited from directly discharging into any surface waters. Best management practices (BMP) designed, installed, and maintained, as described in the Virginia Erosion and Sediment Control Handbook (Third Edition, 1992, or the most recent version in effect at the time of construction) and the Virginia Stormwater Management Handbook (First Edition, 1999, or the most recent version in effect at the time of construction), shall be deemed suitable treatment prior to discharge into surface waters. Installation of alternative practices not described in these references shall be submitted to DEQ for approval prior to beginning construction.
13. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, or the most recent version in effect at the time of construction. These controls shall be placed prior to clearing and grading activities and shall be maintained in good working order, to minimize impacts to surface waters. These controls shall remain in place only until clearing and grading activities cease and these areas have been stabilized.
14. All *non-impacted* wetlands, streams, and designated upland buffers that are within the project or right-of-way limits, and that are within fifty feet of any project activities, shall be clearly flagged or demarcated for the life of the construction activity within that area. All non-impacted open water areas within the project or right-of-way limits, and that are within fifty feet of any project activities, shall be clearly flagged or demarcated, as practicable, for the life of the construction activity within that area. The permittee shall notify all contractors and subcontractors that *no activities are to occur in these marked areas*.
15. All temporarily impacted subaqueous bottom shall be restored to its original elevation and contour within 30 calendar days following completion of in-reservoir work and prior to removal of temporary coffer dams. All temporary coffer dam materials shall be removed entirely after construction activities in the reservoir are complete, and no coffer dam materials shall be placed as fill within the reservoir.
16. Temporary disturbance of reservoir shoreline shall be authorized provided that the disturbed shoreline is seeded or planted with the same vegetative cover type that was originally present along the shoreline, including supplemental erosion control grasses if necessary, but not including invasive species identified on DCR's Invasive Alien Plant Species of Virginia list. The permittee shall take all appropriate measures to promote and maintain the revegetation of temporarily disturbed shoreline through the second year post-disturbance in areas associated with the authorized activities.

D. Projects Involving Stream, Intake, or Outfall Modifications

1. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills, breakwaters, dams, or weirs.
2. The permittee shall install screens over the openings of each intake port. Each screen shall not have a mesh opening size larger than one inch. Each screen shall allow a through-screen velocity of no more than 0.76 feet per second. Should DEQ determine that impacts to aquatic resources have occurred due to placement or design of the intake structure or screens, DEQ may require modification of the structures or screens to reduce potential impingement and entrainment of aquatic species.

E. Compensatory Mitigation

The permittee shall provide compensatory mitigation for permanent wetland and stream bed impacts through the purchase of 5.56 wetland credits and 1,094 stream credits from one or more approved mitigation banks having a service area that includes the same or adjacent watershed as the proposed project. Any change to the planned compensation shall be approved by DEQ prior to initiating any construction activities in surface waters.

F. Water Withdrawal and Minimum Instream Flow Conditions

1. The maximum *daily* volume of surface water withdrawn from the Troublesome Creek Reservoir shall not exceed 1.275 million gallons (mg) at any time that water is spilling through the overflow structure in the reservoir. At any time that water is not spilling through the overflow structure, the maximum daily volume of surface water withdrawn from the reservoir shall not exceed 1.275 mgd plus the rate required to comply with the minimum in-stream flow rates detailed in Part I.F.5 of this permit.
2. The maximum *annual* volume of surface water withdrawn from the Troublesome Creek Reservoir for consumptive purposes shall not exceed 311 million gallons (mg).
3. Natural inflow to the Troublesome Creek Reservoir shall be that mean daily flow which is measured at the U.S. Geologic Survey Holiday Creek near Andersonville Gage No. 02038850 in Appomattox County, Virginia multiplied by a drainage area factor of 0.747 ($Q_{\text{Holiday}} \times 0.747 = Q_{\text{Troublesome}}$).
4. Return flow downstream of the dam shall be the total of flow leaving the overflow structure located in the reservoir, the backwash discharge from the Buckingham Water Treatment Plant, and flow released to meet the conditions of this permit.

5. A minimum in-stream flow rate (cfs) shall be returned to Troublesome Creek downstream of the existing dam in accordance with the following provisions:
 - a. Troublesome Creek Reservoir shall be considered full when the total volume reaches 192.3 million gallons (384.77 feet above mean sea level).
 - b. When the storage in Troublesome Creek Reservoir is 81 percent of full or greater, return flows to Troublesome Creek shall be the lesser of 0.4 cubic feet per second (0.26 million gallons per day) or the natural inflow to the reservoir.
 - c. When the storage in Troublesome Creek Reservoir is 80 percent of full or less, return flows to Troublesome Creek shall be the lesser of 0.2 cubic feet per second (0.13 million gallons per day) or the natural inflow to the reservoir.

G. Monitoring, Notification, and Reporting

Monitoring

1. The permittee shall conduct photographic monitoring of *pre-construction conditions* in permitted permanent and temporary impact areas covered by this permit. Photographic monitoring shall be conducted by the following method:
 - a. Enumerated photo stations shall be established at each permitted impact area, or in cases where lengths of shoreline or stream are being impacted, at each break in the vegetation community type. Once the stations are established, the directional orientation of each photo station shall remain constant during all monitoring events. Photo stations shall be sufficient to represent permitted activities. Photo stations may be established via water craft or temporary floating structures.
 - b. Each photograph taken shall be labeled with the permit number, the permitted impact area, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. If necessary, this information shall be provided as a separate attachment to each photograph.
2. The permittee shall conduct photographic monitoring *during construction activities* if construction in each permitted permanent or temporary impact area exceeds 30 days. If required, monitoring shall be sufficient to document that the permitted activities are in compliance with permit conditions or to document any events that are not in compliance with the construction-related permit conditions. The permittee shall use the same photo method and location specified for pre-construction monitoring in Part I.G.1. When applicable, photographic monitoring in each permitted impact area shall be required once every 30 days until construction in the impact area is completed, and shall be required when non-compliance events occur regardless of any other monitoring period specified herein.

3. The permittee shall conduct photographic monitoring *once construction activities are complete, and after each temporary disturbance activity is complete*, in order to document that the construction occurred as planned and that temporarily disturbed areas have been restored in compliance with these permit conditions. The permittee shall use the same photo method and location specified for pre-construction monitoring in Part I.G.1.
4. The permittee shall monitor stream discharge (flow) at the U.S. Geological Survey (USGS) Holiday Creek near Andersonville Gage No. 02038850 in Appomattox County, Virginia on a daily basis whenever withdrawals from the reservoir occur. Discharge may be obtained using the USGS web page USGS Real-Time Water Data for the Nation at <http://waterdata.usgs.gov/nwis/rt>. This data shall be used to determine the natural inflow to the reservoir and the required return flow to be provided in accordance with Part I.F.

Within 30 days of this issuance of this permit, the permittee shall submit to DEQ an alternative method for determining the natural inflow into the reservoir in the event that the USGS gage or web page malfunctions. Failure to determine the previous day's inflow shall not constitute reason on the part of the permittee for noncompliance with the terms and conditions of this permit.

Should DEQ determine that impacts to downstream beneficial uses have occurred as a result of the authorized project, DEQ may require the installation of a stream gage on Troublesome Creek and monitoring requirements that differ from those specified herein. Such revisions may require that this permit be modified in accordance with the Virginia Water Protection Permit Program Regulation 9VAC25-210 in effect at that time.

5. In the event that the Governor or the Virginia Drought Coordinator declares a drought emergency in the Middle James Drought Evaluation Region, which includes but is not limited to Buckingham County, the permittee shall implement either the provisions directed by the declaration, or the mandatory conservation measures detailed in Appendix A of this permit, whichever is most restrictive. The permittee shall be responsible for determining when drought emergencies are declared.

The requirements of this Special Condition may be modified upon the adoption by the permittee of a drought response and contingency plan for the area serviced by the Troublesome Creek Reservoir. The drought response and contingency plan shall be submitted for DEQ review and approval prior to final adoption by the permittee.

Notification

6. The permittee shall submit written notification at least *ten calendar days* prior to the initiation of land disturbance or construction activities in permitted areas. The notification shall include a projected schedule for initiating and completing work at each permitted impact area.

7. Should in-stream activities below the Troublesome Creek Reservoir dam be necessary, the permittee shall contact DEQ prior to implementing such activities. A time-of-year restriction from March 15 through June 30 of any year shall apply to in-stream activities below the dam.
8. The permittee or authorized contractor shall immediately notify the DEQ Blue Ridge Regional Office-Lynchburg at 434-582-5120 upon the discovery of any fish kills or spills of fuels or oils. If DEQ cannot be reached, the permittee or authorized contractor shall notify the Virginia Department of Emergency Management (DEM) at 1-800-468-8892 or the National Response Center (NRC) at 1-800-424-8802.
9. The permittee shall notify the DEQ of any additional impacts to surface waters, including wetlands; of any modifications to the overflow structure, spillway, or other project structures; and of any change to the type of surface water impacts associated with this project. Any additional surface water impacts or changes to the project shall be subject to DEQ review, and may result in the modification of this permit or additional compensatory mitigation.
10. The permittee shall notify DEQ within 14 days of the completion of construction of the overflow structure and spillway modifications, and at that time shall provide the expected date on which the normal pool of the reservoir is expected to be raised.

Reporting

11. The permittee shall submit to DEQ a final wetland and stream compensatory mitigation plan prepared in accordance with the Virginia Water Protection Permit Program Regulation (9VAC25-210) *prior to any construction activity in permitted impact areas*. DEQ shall have 30 days to review the plan and either provide written comments or approve the final plan. The final plan as approved by DEQ shall be an enforceable requirement of this permit, and no construction activities in permitted areas shall commence prior to DEQ's approval of the plan. Within 60 days of DEQ's approval of the final mitigation plan, the permittee shall provide the proofs of purchase for all required wetland and stream compensatory mitigation credits, unless an extension of time for the purchases is granted by DEQ. Any such granted extension shall be for no more than 30 days.
12. Final plans for the project construction activities authorized by this permit shall be submitted 30 calendar days prior to initiating any land disturbance or construction in permitted impact areas. Final construction plans shall include the location and orientation of all photo monitoring stations. Construction activities shall not be initiated until DEQ has both reviewed and commented on the plans, or until 30 calendar days have passed, during which time no DEQ comments were received regarding the plan. In the event DEQ submits comments on the final plans, construction shall not proceed until comments are resolved to DEQ's satisfaction.

13. A pre-construction monitoring report shall be submitted with the 10-day notification required by Part I.G.6 for commencing construction. The report shall contain a labeled site map depicting all permitted impact areas and photo stations, and the photographs taken of pre-construction conditions at each photo station, in accordance with Part I.G.1 of these permit conditions.
14. When required by Part I.G.2, construction monitoring reports shall be submitted to DEQ within 14 days of completing each monthly monitoring event. The reports shall include the following, as appropriate:
 - a. A description of the work performed, when the work was initiated, and the expected date of completion;
 - b. A summary and photographs documenting any non-compliance events or problems encountered, any corrective actions taken, and any subsequent notifications to DEQ;
 - c. A summary of anticipated work to be completed during the next reporting period, and an estimated date of construction completion at all permitted impact areas;
 - d. A labeled site map depicting all permitted impact areas and photo stations; and
 - e. Properly labeled photographs, including those documenting the completed restoration of temporarily disturbed surface waters.
15. A post-construction monitoring report shall be submitted within 30 days after completing all activities in surface waters. The report shall include the following:
 - a. a labeled site map depicting all permitted impact areas and photo stations;
 - b. the actual date that construction in each permitted impact area was completed;
 - c. a description of the work performed in each permitted impact area; and
 - d. the photographs taken of post-construction conditions at each photo station.
16. The permittee shall report all authorized surface water withdrawals to the DEQ Office of Surface and Groundwater Supply Planning at P.O. Box 1105, Richmond, Virginia, 23218 by January 31st of the year following the year in which the withdrawals occurred. *Reporting surface water withdrawals in accordance with the conditions of this permit satisfies the reporting requirement for the Water Withdrawal Reporting Regulation 9VAC25-200-10 et seq.* The annual monitoring report shall contain the following information at a minimum:

- a. the permittee's name and address;
 - b. the VWP permit number (09-1061);
 - c. the permittee's assigned facility identification number for reporting surface water withdrawals under 9VAC25-200-10 et seq;
 - d. the calendar date;
 - e. the daily mean discharge (daily mean stream flow) for the previous day at the U.S. Geological Survey (USGS) Holiday Creek near Andersonville Gage No. 02038850 in Appomattox County, Virginia;
 - f. the daily calculated natural inflow into the Troublesome Creek Reservoir;
 - g. the daily percent full value for the Troublesome Creek Reservoir;
 - h. the required daily return flow in cubic feet per second (cfs) to Troublesome Creek;
 - i. the actual total daily return flow in cfs that was provided to Troublesome Creek, as well as the individual values for the metered backwash discharge released; the released portion of the withdrawal not used for consumptive purposes; and the calculated release through the overflow structure;
 - j. the total daily volume of water (million gallons) that is withdrawn from Troublesome Creek Reservoir, as well as the individual values for the consumptive and non-consumptive portions of the authorized withdrawal;
 - k. the method of measuring the withdrawal;
 - l. the largest single-day volume withdrawn (million gallons) that occurred in the reporting year, and the month in which it occurred; and
 - m. the dates on which mandatory water conservation measures were implemented in the service area supplied by the authorized surface water withdrawal.
17. All reports required by this permit and other information requested by DEQ shall be signed by the permittee, or a person acting on the permittee's behalf as a duly authorized representative with the authority to bind the permittee.

A person is a duly authorized representative only if 1) the authorization is made in writing by the permittee; AND 2) the authorization specifies either the named individual or the named position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility.

If a change of the duly authorized representative occurs, the permittee shall immediately notify DEQ in writing, providing the new named individual or named position and contact information for the new duly authorized representative.

18. All submittals to DEQ shall contain the following signed certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

A. Duty to Comply

The permittee shall comply with all conditions of the VWP permit. Nothing in the VWP permit regulations shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and prohibitions. Any VWP permit violation is a violation of the law, and is grounds for enforcement action, VWP permit termination, revocation, modification, or denial of an application for a VWP permit extension or reissuance.

B. Duty to Cease or Confine Activity

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.

C. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any impacts in violation of the permit which may have a reasonable likelihood of adversely affecting human health or the environment.

D. VWP Permit Action

1. A VWP permit may be modified, revoked and reissued, or terminated as set forth in 9 VAC 25-210 et seq.
2. If a permittee files a request for VWP permit modification, revocation, or termination, or files a notification of planned changes, or anticipated noncompliance, the VWP permit terms and conditions shall remain effective until the request is acted upon by the board. This provision shall not be used to extend the expiration date of the effective VWP permit. If the permittee wishes to continue an activity regulated by the VWP permit after the expiration date of the VWP permit, the permittee must apply for and obtain a new VWP permit or comply with the provisions of 9 VAC 25-210-185 (VWP Permit Extension).
3. VWP permits may be modified, revoked and reissued or terminated upon the request of the permittee or other person at the board's discretion, or upon board initiative to reflect the requirements of any changes in the statutes or regulations, or as a result of VWP permit noncompliance as indicated in the Duty to Comply subsection above, or for other reasons listed in 9 VAC 25-210-180 (Rules for Modification, Revocation and Reissuance, and Termination of VWP permits).

E. Inspection and Entry

Upon presentation of credentials, any duly authorized agent of the board may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP permit conditions;
2. Inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP permit; and
3. Sample or monitor any substance, parameter or activity for the purpose of ensuring compliance with the conditions of the VWP permit or as otherwise authorized by law.

F. Duty to Provide Information

1. The permittee shall furnish to the board any information which the board may request to determine whether cause exists for modifying, revoking, reissuing or terminating the VWP permit, or to determine compliance with the VWP permit. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.
2. Plans, specifications, maps, conceptual reports and other relevant information shall be submitted as required by the board prior to commencing construction.

G. Monitoring and Records Requirements

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.
2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the VWP permit, and records of all data used to complete the application for the VWP permit, for a period of at least three years from the date of the expiration of a granted VWP permit. This period may be extended by request of the board at any time.
4. Records of monitoring information shall include:
 - a. The date, exact place and time of sampling or measurements;

- b. The name of the individuals who performed the sampling or measurements;
- c. The date and time the analyses were performed;
- d. The name of the individuals who performed the analyses;
- e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;
- f. The results of such analyses; and
- g. Chain of custody documentation.

H. Transferability

This VWP permit may be transferred to a new permittee only by modification to reflect the transfer, by revoking and reissuing the permit, or by automatic transfer. Automatic transfer to a new permittee shall occur if:

1. The current permittee notifies the board within 30 days of the proposed transfer of the title to the facility or property;
2. The notice to the board includes a written agreement between the existing and proposed permittee containing a specific date of transfer of VWP permit responsibility, coverage and liability to the new permittee, or that the existing permittee will retain such responsibility, coverage, or liability, including liability for compliance with the requirements of any enforcement activities related to the permitted activity; and
3. The board does not within the 30-day time period notify the existing permittee and the new permittee of its intent to modify or revoke and reissue the VWP permit.

I. Property rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state or local law or regulation.

J. Reopener

Each VWP permit shall have a condition allowing the reopening of the VWP permit for the purpose of modifying the conditions of the VWP permit to meet new regulatory standards duly adopted by the board. Cause for reopening VWP permits includes, but is not limited to when the circumstances on which the previous VWP permit was based have materially and substantially changed, or special studies conducted by the board or the permittee show material and

substantial change, since the time the VWP permit was issued and thereby constitute cause for VWP permit modification or revocation and reissuance.

K. Compliance with State and Federal Law

Compliance with this VWP permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

L. Severability

The provisions of this VWP permit are severable.

M. Permit Modification

A VWP permit may be modified, but not revoked and reissued except when the permittee agrees or requests, when any of the following developments occur:

1. When additions or alterations have been made to the affected facility or activity which require the application of VWP permit conditions that differ from those of the existing VWP permit or are absent from it;
2. When new information becomes available about the operation or activity covered by the VWP permit which was not available at VWP permit issuance and would have justified the application of different VWP permit conditions at the time of VWP permit issuance;
3. When a change is made in the promulgated standards or regulations on which the VWP permit was based;
4. When it becomes necessary to change final dates in schedules due to circumstances over which the permittee has little or no control such as acts of God, materials shortages, etc. However, in no case may a compliance schedule be modified to extend beyond any applicable statutory deadline of the Act;
5. When changes occur which are subject to "reopener clauses" in the VWP permit; or
6. When the board determines that minimum instream flow levels resulting from the permittee's withdrawal of water are detrimental to the instream beneficial use and the withdrawal of water should be subject to further net limitations or when an area is declared a Surface Water Management Area pursuant to §§ 62.1-242 through 62.1-253 of the Code of Virginia, during the term of the VWP permit.

N. Permit Termination

After notice and opportunity for a formal hearing pursuant to Procedural Rule No. 1 (9 VAC 25-230-100) a VWP permit can be terminated for cause. Causes for termination are as follows:

1. Noncompliance by the permittee with any condition of the VWP permit;
2. The permittee's failure in the application or during the VWP permit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;
3. The permittee's violation of a special or judicial order;
4. A determination by the board that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by VWP permit modification or termination;
5. A change in any condition that requires either a temporary or permanent reduction or elimination of any activity controlled by the VWP permit; and
6. A determination that the permitted activity has ceased and that the compensatory mitigation for unavoidable adverse impacts has been successfully completed.

O. Civil and Criminal Liability

Nothing in this VWP permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and Hazardous Substance Liability

Nothing in this VWP permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Unauthorized Discharge of Pollutants

Except in compliance with this VWP permit, it shall be unlawful for the permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;
2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses;
4. On or after October 1, 2001 conduct the following activities in a wetland:
 - a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;
 - b. Filling or dumping;
 - c. Permanent flooding or impounding;
 - d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

Attachment A - Water Conservation

Mandatory Non-essential Water Use Restrictions

The following non-essential water uses will be prohibited during periods of declared drought emergencies. Please note the exceptions that follow each prohibited use. These prohibitions and exceptions will apply to uses from all sources of water and will only be effective when the Governor of Virginia or the Virginia Drought coordinator declares a Drought Emergency. Water use restrictions shall not apply to the agricultural production of food or fiber, the maintenance of livestock including poultry, nor the commercial production of plant materials so long as best management practices are applied to assure the minimum amount of water is utilized.

Unrestricted irrigation of lawns is prohibited.

- Newly sodded and seeded areas may be irrigated to establish cover on bare ground at the minimum rate necessary for no more than a period of 60 days. Irrigation rates may not exceed one inch of applied water in any 7-day period.
- Gardens, bedding plants, trees, shrubs and other landscape materials may be watered with hand held containers, hand held hoses equipped with an automatic shutoff device, sprinklers or other automated watering devices at the minimum rate necessary but in no case more frequently than twice per week. Irrigation should not occur during the heat of the day.
- All allowed lawn irrigation must be applied in a manner to assure that no runoff, puddling or excessive watering occurs.
- Irrigation systems may be tested after installation, routine maintenance or repair for no more than ten minutes per zone.

Unrestricted irrigation of athletic fields is prohibited.

- Athletic fields may be irrigated between the hours of 9:00 p.m. and 10:00 a.m. at a rate not to exceed one inch per application or more than a total of one inch in multiple applications during any ten-day period. All irrigation water must fall on playing surfaces with no outlying areas receiving irrigation water directly from irrigation heads.
- Localized dry areas that show signs of drought stress and wilt (curled leaves, foot-printing, purpling) may be syringed by the application of water for a cumulative time not to exceed fifteen minutes during any twenty four hour period. Syringing may be accomplished with an automated irrigation system or with a hand held hose equipped with an automatic shutoff device at the minimum rate necessary.
- Athletic fields may be irrigated between the hours of 9:00 p.m. and 10:00 a.m. during necessary overseeding, sprigging or resodding operations at the minimum rate necessary for a period that does not exceed 60 days. Irrigation rates during this restoration period may not exceed one inch of applied water in any seven-day period. Syringing is permitted during signs of drought stress and wilt (curled leaves, foot-printing, purpling).
- All allowed athletic field irrigation must be applied in a manner to assure that no runoff, puddling or excessive watering occurs.

- Irrigation is prohibited on athletic fields that are not scheduled for use within the next 120-day period.
- Water may be used for the daily maintenance of pitching mounds, home plate areas and base areas with the use of hand held containers or hand held hoses equipped with an automatic shutoff device at the minimum rate necessary.
- Skinned infield areas may utilize water to control dust and improve playing surface conditions utilizing hand held containers or hand held hoses equipped with an automatic shutoff device at the minimum rate necessary no earlier than two hours prior to official game time.

Washing paved surfaces such as streets, roads, sidewalks, driveways, garages, parking areas, tennis courts, and patios is prohibited.

- Driveways and roadways may be pre-washed in preparation for recoating and sealing.
- Tennis courts composed of clay or similar materials may be wetted by means of a hand-held hose equipped with an automatic shutoff device at the minimum rate necessary for maintenance. Automatic wetting systems may be used between the hours of 9:00 p.m. and 10:00 a.m. at the minimum rate necessary.
- Public eating and drinking areas may be washed using the minimum amount of water required to assure sanitation and public health.
- Water may be used at the minimum rate necessary to maintain effective dust control during the construction of highways and roads.

Use of water for washing or cleaning of mobile equipment including automobiles, trucks, trailers and boats is prohibited.

- Mobile equipment may be washed using hand held containers or hand held hoses equipped with automatic shutoff devices provided that no mobile equipment is washed more than once per calendar month and the minimum amount of water is utilized.
- Construction, emergency or public transportation vehicles may be washed as necessary to preserve the proper functioning and safe operation of the vehicle.
- Mobile equipment may be washed at car washes that utilize reclaimed water as part of the wash process or reduce water consumption by at least 10% when compared to a similar period when water use restrictions were not in effect.
- Automobile dealers may wash cars that are in inventory no more than once per week utilizing hand held containers and hoses equipped with automatic shutoff devices, automated equipment that utilizes reclaimed water as part of the wash process, or automated equipment where water consumption is reduced by at least 10% when compared to a similar period when water use restrictions were not in effect.
- Automobile rental agencies may wash cars no more than once per week utilizing hand held containers and hoses equipped with automatic shutoff devices, automated equipment that utilizes reclaimed water as part of the wash process, or automated equipment where water consumption is reduced by at least 10% when compared to a similar period when water use restrictions were not in effect.

- Marine engines may be flushed with water for a period that does not exceed 5 minutes after each use.

Use of water for the operation of ornamental fountains, artificial waterfalls, misting machines, and reflecting pools is prohibited.

- Fountains and other means of aeration necessary to support aquatic life are permitted.

Use of water to fill and top off outdoor swimming pools is prohibited.

- Newly built or repaired pools may be filled to protect their structural integrity.
- Outdoor pools operated by commercial ventures, community associations, recreation associations, and similar institutions open to the public may be refilled as long as:
 - Levels are maintained at mid-skimmer depth or lower,
 - Any visible leaks are immediately repaired,
 - Backwashing occurs only when necessary to assure proper filter operation,
 - Deck areas are washed no more than once per calendar month (except where chemical spills or other health hazards occur),
 - All water features (other than slides) that increase losses due to evaporation are eliminated, and
 - Slides are turned off when the pool is not in operation.
- Swimming pools operated by health care facilities used in relation to patient care and rehabilitation may be filled or topped off.
- Indoor pools may be filled or topped off.
- Residential swimming pools may be filled only to protect structural integrity, public welfare, safety and health and may not be filled to allow the continued operation of such pools.

Water may be served in restaurants, clubs, or eating-places only at the request of customers.